

REMARKS

The Examiner is requiring restriction to one of the following groups:

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Group I: Claims 1-19, drawn to a process of coating a pipe; and

Group II: Claims 20-21, drawn to a coated pipe.

Applicants have elected Group I, claims 1-19, drawn to a process of coating a pipe, with traverse.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the examiner if restriction is not required (M.P.E.P. § 803). The burden of proof is on the Examiner to provide reasons and/or examples, to support any conclusion in regard to patentable distinctness (M.P.E.P. § 803). Applicants respectfully traverse the restriction requirement on the grounds that the Examiner has not carried the burden of providing sufficient reason and/or examples to support any conclusion that the claims of the restricted groups are patentably distinct.

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The Examiner has categorized the relationships between Groups I and II as a process of making and product made. Patentable distinctness may be shown if either or both of the following can be shown: (A) that the process as claimed is not an obvious process of making the product and the process as claimed can be used to make other and different products; or

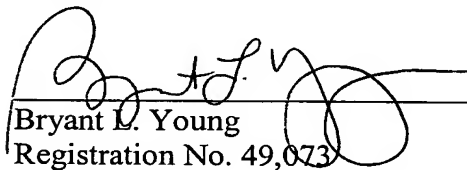
(B) that the product as claimed can be made by another and materially different process (M.P.E.P. § 806.05(f)). The Examiner asserts that the claimed product can be made by a materially different process such as melting the coating using a flame source directed at the coating rather than a medium induction coil.

The Examiner, however, does not meet the requirements of M.P.E.P. § 806.05(f), because his assertion is not evidence that the claimed article “can be made by another and materially different process” (emphasis added). The Examiner has not shown that the a flame source results in a different process, or that the product of the claimed invention would be produced from such a process. Therefore, the Examiner’s reasoning is merely a restatement of the Examiner’s conclusion that the two groups are patentably distinct, which is believed to be improper.

Accordingly, for at least the reasons presented above, Applicants submit that the Examiner has failed to meet the burden necessary to sustain the restriction requirement. Withdrawal of the requirement is respectfully requested.

Respectfully submitted,

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